

[STAFF WORKING DRAFT]

SEPTEMBER 16, 2005

109TH CONGRESS
1ST SESSION

S. _____

To establish a unified national hazard alert system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER —, 2005

Mr. _____ (for himself, Mr. _____, and Mr. _____
) introduced the following bill; which was read twice and referred to the
Committee on _____

A BILL

To establish a unified national hazard alert system, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Warning, Alert, and Response Network Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Establishment of all hazards alert system.
- Sec. 3. National program office.
- Sec. 4. Working group on national alert system.
- Sec. 5. Grant program for remote community alert systems.
- Sec. 6. Characteristics of alerts.
- Sec. 7. Implementation and use of system.
- Sec. 8. Definitions.
- Sec. 9. Authorization of appropriations.

1 **SEC. 2. ESTABLISHMENT OF ALL HAZARDS ALERT SYSTEM.**

2 (a) ESTABLISHMENT.—There is established an all
3 hazards alert system that—

4 (1) will enable any appropriate Federal depart-
5 ment or agency or State or local governmental entity
6 to alert the public to any imminent threat from nat-
7 ural phenomena, accidents, natural disasters, ter-
8 rorist activity, and other emergency situations that
9 present a significant risk of injury or death to the
10 public;

11 (2) will be coordinated with and supplement ex-
12 isting Federal, State, and local emergency warning
13 and alert system;

14 (3) will be flexible enough in its application to
15 permit narrowly targeted alerts in circumstances in
16 which only a small geographic area is exposed or po-
17 tentially exposed to the threat; and

18 (4) will transmit alerts in response to natural
19 hazards, hazardous materials incidents, and terrorist
20 attacks across the greatest possible variety of media,
21 including digital and analog broadcast, cable, and

1 satellite television and radio, wireless telecommuni-
2 cations, and hardwire telecommunications, to reach
3 the largest portion of the affected population.

4 (b) TECHNOLOGY.—The System—

5 (1) shall incorporate multiple technologies for
6 effecting mass communications and be designed to
7 adapt to, and incorporate, future technologies for
8 communicating directly with the public;

9 (2) include mechanisms and technologies to en-
10 sure that members of the public with disabilities are
11 able to receive alerts and information provided
12 through the System;

13 (3) may not interfere with existing alert, warn-
14 ing, or emergency communications systems employed
15 by Federal, State, or local emergency response per-
16 sonnel;

17 (4) shall be designed to provide alerts over as
18 diverse a group of media as possible, to include dig-
19 ital and analog broadcast, cable, and satellite tele-
20 vision and radio, wireless telecommunications, and
21 landline communications and technologies for com-
22 municating within rural communities;

23 (5) shall incorporate existing emergency alert
24 technologies currently utilized by digital and analog

1 broadcast, cable, and satellite television and radio;
2 and

3 (6) shall incorporate technologies to alert tradi-
4 tionally underserved communities.

5 (c) OFFICIAL ACCESS AND ACTIVATION.—The direc-
6 tor shall implement procedures that ensure that—

7 (1) the System is available to, and enables,
8 credentialed personnel to access and utilize the Sys-
9 tem to provide geographically targeted alerts where
10 such alerts are appropriate; and

11 (2) the System is available to, and enables,
12 State and local public safety officials to provide
13 alerts for hazards within their respective jurisdic-
14 tions subject to a mechanism developed by the
15 Working Group for verifying the legitimacy and au-
16 thenticity of a proffered System alert, ensuring the
17 proffered alert's compliance with regulations estab-
18 lished by the Office, and guaranteeing the integrity
19 of a System alert from the point of origination to
20 delivery.

21 (d) PUBLIC ACCESS.—The System shall—

22 (1) utilize multiple technologies for providing
23 alerts to the public, including technologies that do
24 not require members of the public to activate a par-

1 ticular device or use a particular technology to re-
2 ceive an alert provided via the System;

3 (2) provide redundant alert mechanisms where
4 practicable so as to reach the greatest number of
5 people regardless of whether they have access to, or
6 utilize, any specific medium of communication or
7 any particular device; and

8 (3) incorporate means by which an individual
9 may remove a passive alert device from the System
10 or otherwise block alerts transmitted through the de-
11 vice to the individual on a device owned or controlled
12 by that individual.

13 (e) EAS COORDINATION AND REQUIREMENTS.—The
14 director shall work with the Federal Communications
15 Commission to ensure that the System—

16 (1) complements, rather than duplicates, the
17 current emergency alert system; and

18 (2) obtains the maximum benefit possible from
19 the utilization of existing research and development,
20 technologies, and processes developed for or utilized
21 by the emergency alert system.

22 (f) EMERGENCY ALERT SYSTEM.—Notwithstanding
23 any other provision of law, all broadcast licensees or per-
24 mittees engaged in digital broadcasting shall broadcast
25 any emergency alert, including alerts under the emergency

1 alert system established pursuant to sections 1, 4, 303,
2 and 706 of the Communications Act of 1934 (47 U.S.C.
3 151, 154, 303, and 606) governing war emergency powers
4 of the President of the United States, at the request of—

5 (1) the President of the United States;

6 (2) the Secretary of Homeland Security; or

7 (3) a governor of a State in which it broad-
8 casts.

9 **SEC. 3. NATIONAL PROGRAM OFFICE.**

10 (a) ESTABLISHMENT.—

11 (1) IN GENERAL.—The National Program Of-
12 fice is established within the National Oceanic and
13 Atmospheric Administration.

14 (2) DIRECTOR.—The office shall be headed by
15 a director with at least 5 years' operational experi-
16 ence in the management and issuance of warnings
17 and alerts, hazardous event management, or disaster
18 planning.

19 (3) STAFF.—The office shall have a staff with
20 significant technical expertise in the telecommuni-
21 cations industry. The director may request the de-
22 tailing, with or without reimbursement, of staff from
23 any appropriate Federal department or agency in
24 order to ensure that the concerns of all such depart-

1 ments and agencies are incorporated into the daily
2 operation of the System.

3 (b) FUNCTIONS AND RESPONSIBILITIES.—

4 (1) IN GENERAL.—The Office shall conduct the
5 day-to-day operation and management of the Sys-
6 tem.

7 (2) IMPLEMENTATION OF WORKING GROUP
8 RECOMMENDATIONS.—The Office shall be respon-
9 sible for implementing the recommendations of the
10 Working Group established by section 4 regarding—

11 (A) the technical issuance of alerts;

12 (B) the incorporation of new technologies
13 into the System; and

14 (C) the technical capabilities of the Sys-
15 tem.

16 (c) REPORTS.—

17 (1) INITIAL PROGRESS REPORT.—Fifteen
18 months after the date of enactment of this Act, the
19 director shall transmit a report to the President, the
20 Senate Committee on Commerce, Science, and
21 Transportation and Committee on Homeland Secu-
22 rity and Governmental Affairs and the House of
23 Representatives Committee on Energy and Com-
24 merce and Committee on Homeland Security con-
25 cerning—

1 (A) the progress made toward operational
2 activation of the System; and

3 (B) the anticipated date on which the Sys-
4 tem will be activated.

5 (2) ANNUAL REPORTS.—The director shall sub-
6 mit an annual report to the Senate Committee on
7 Commerce, Science, and Transportation and Com-
8 mittee on Homeland Security and Governmental Af-
9 fairs and the House of Representatives Committee
10 on Energy and Commerce and Committee on Home-
11 land Security on the status of, and plans for, the
12 System.

13 (3) 5-YEAR PLAN.—Within 1 year after the
14 date of enactment of this Act and every 5 years
15 thereafter, the director shall publish a 5-year plan
16 that outlines future capabilities and warning tech-
17 nologies for the System. The plan shall serve as the
18 long-term planning document for the Office.

19 (d) RESEARCH AND DEVELOPMENT PROGRAM.—The
20 director shall establish a research and development pro-
21 gram to support the development of technology that will
22 enable all existing and future providers of communications
23 services and all existing and future communications de-
24 vices to be utilized effectively with the System.

1 **SEC. 4. WORKING GROUP ON NATIONAL ALERT SYSTEM.**

2 (a) ESTABLISHMENT OF WORKING GROUP.—Not
3 later than 60 days after the date of enactment of this Act,
4 the director of the National Program Office shall establish
5 a working group, to be known as the Working Group on
6 the National Alert System. The director of the Office shall
7 serve as chairperson of the Working Group.

8 (b) MEMBERSHIP.—

9 (1) FEDERAL GOVERNMENT.—The membership
10 of the Working Group shall include appropriate per-
11 sonnel from the National Institute of Standards and
12 Technology, the National Oceanic and Atmospheric
13 Administration, the Federal Communications Com-
14 mission, and the Federal Emergency Management
15 Agency. The chair may also include in the Working
16 Group representatives of other Federal agencies as
17 appropriate.

18 (2) STATE AND LOCAL GOVERNMENTS, ETC.—
19 The Working Group shall include 8 representatives
20 from State and local governments and 5 representa-
21 tives of emergency services personnel, selected by na-
22 tional organizations representing such governments
23 and personnel.

24 (3) COMMUNICATIONS SERVICE PROVIDERS.—
25 Membership in the Working Group shall be open to
26 representatives of—

- 1 (A) communications service providers,
2 (B) vendors, developers, and manufactur-
3 ers of facilities, equipment, and capabilities for
4 the provision of communications services, and
5 (C) trusted third party service bureaus,
6 who have the requisite technical knowledge and ex-
7 pertise to assist the Working Group in the fulfill-
8 ment of its duties.

9 (4) APPOINTMENTS.—The initial meeting of the
10 Working Group shall take place not later than 60
11 days after the date of the enactment of this Act.

12 (5) VACANCIES.—Any vacancy in the Working
13 Group shall not affect its powers, but shall be filled
14 in the same manner as the original appointment.

15 (c) DUTIES OF THE WORKING GROUP.—Not later
16 than 1 year after the enactment of this Act, the Working
17 Group shall transmit to the director—

18 (1) a description of the emergency alert service
19 to be provided by the System;

20 (2) guidelines for the technical capabilities of
21 the System;

22 (3) guidelines for technical capability that pro-
23 vides for the priority transmission of System alerts;

24 (4) guidelines for the other capabilities of the
25 System as specified in this Act; and

1 (5) standards to which the equipment and tech-
2 nologies in the System must conform.

3 (d) ACCEPTANCE OF GIFTS AND GRANTS.—The
4 Working Group may accept, use, and dispose of gifts or
5 grants of services or property, both real and personal, for
6 purposes of aiding or facilitating the work of the Working
7 Group. Gifts or grants not used at the expiration of the
8 Working Group shall be returned to the donor or grantor.

9 (e) OTHER RESOURCES.—The Working Group shall
10 have reasonable access to—

11 (1) materials, resources, data, and other infor-
12 mation from the National Institute of Standards and
13 Technology, the Department of Commerce and its
14 agencies, the Department of Homeland Security and
15 its bureaus, and the Federal Communications Com-
16 mission; and

17 (2) the facilities of any such agency for pur-
18 poses of conducting meetings.

19 (f) RULES OF THE WORKING GROUP.—

20 (1) QUORUM.—One-third of the members of the
21 Working Group shall constitute a quorum for con-
22 ducting business of the Working Group.

23 (2) MEETINGS.—The chairperson shall convene
24 meetings. Any meetings held by the Working Group

1 shall be duly noticed at least 14 days in advance and
2 shall be open to the public.

3 (3) PUBLIC NOTICE AND COMMENT.—The
4 Working Group shall provide public notice and an
5 opportunity for public comment on each of the mat-
6 ters committed to it.

7 (4) SUBCOMMITTEES.—To assist the Working
8 Group in carrying out its functions, the chairperson
9 may establish appropriate subcommittees composed
10 of members of the Working Group and other subject
11 matter experts as deemed necessary.

12 (5) ADDITIONAL RULES.—The Working Group
13 may adopt other rules as needed.

14 (g) FEDERAL ADVISORY COMMITTEE ACT.—Neither
15 the Federal Advisory Committee Act (5 U.S.C. App.) nor
16 any rule, order, or regulation promulgated under that Act
17 shall apply to the Working Group.

18 **SEC. 5. GRANT PROGRAM FOR REMOTE COMMUNITY ALERT**
19 **SYSTEMS.**

20 (a) GRANT PROGRAM.—The Office shall establish a
21 program under which grants may be made to provide for
22 the installation of technologies in remote communities ef-
23 fectively unserved by broadcast and wireless technologies
24 for the purpose of enabling residents of those communities
25 to receive System alerts.

1 (b) APPLICATIONS AND CONDITIONS.—In conducting
2 the program, the director of the Office—

3 (1) shall establish a notification and application
4 procedure; and

5 (2) may establish such conditions, and require
6 such assurances, as may be appropriate to ensure
7 the efficiency and integrity of the grant program.

8 **SEC. 6. CHARACTERISTICS OF ALERTS.**

9 (a) IN GENERAL.—The System shall be capable of—

10 (1) notifying the public of hazardous situations
11 that pose an imminent threat to the public health or
12 safety;

13 (2) providing appropriate instructions for ac-
14 tions to be taken by individuals affected or poten-
15 tially affected by such a situation;

16 (3) transmitting public address by Federal,
17 State, or local officials; and

18 (4) notifying the public of when the hazardous
19 situation has ended or brought under control.

20 (b) EVENT ELIGIBILITY REGULATIONS.—The Office
21 shall by regulation specify—

22 (1) the classes of events or situations for which
23 the System may be used to alert the public; and

24 (2) the types of alerts that may be transmitted
25 by or through use of the System.

1 (c) VOLUNTARY ALERTS RETRANSMITTAL.—The
2 System shall be capable of transmitting alerts that are not
3 of a nature described in subsection (a) subject to the re-
4 quirement that any recipient of such an alert shall take
5 appropriate action to receive the alert.

6 **SEC. 7. IMPLEMENTATION AND USE OF SYSTEM.**

7 (a) CREDENTIALING.—

8 (1) IN GENERAL.—The System shall include a
9 credentialing process for public officials with respon-
10 sibility for issuing safety warnings to the public that
11 will enable them to access the System.

12 (2) REVIEW OF REQUESTS.—The Office shall
13 review and approve requests for credentials from
14 Federal, State, and local government agencies. All
15 such requests shall be submitted to the Office by the
16 head of the Federal department or agency, or the
17 governor of the State, concerned.

18 (3) SCOPE AND LIMITATIONS OF CREDEN-
19 TIALS.—The Office shall—

20 (A) establish eligibility criteria for issuing,
21 renewing, and revoking access credentials;

22 (B) limit credentials to appropriate geo-
23 graphic areas or political jurisdictions; and

24 (C) ensure that the credentials permit use
25 of the System only for alerts that are consistent

1 with the jurisdiction, authority, and basis for
2 eligibility of the individual credentialed to use
3 the System.

4 (4) PERIODIC TRAINING.—The Office shall—

5 (A) establish a periodic training program
6 for individuals credentialed to use the System;
7 and

8 (B) require credentialed individuals to un-
9 dergo periodic training under the program as a
10 prerequisite for retaining their credentials to
11 use the system.

12 (b) ACCESS POINTS.—The System shall provide—

13 (1) widely dispersed multiple access points to
14 credentialed Federal, State, and local officials to
15 input appropriate alerts into the System for retrans-
16 mission to citizens; and

17 (2) system redundancies to ensure functionality
18 in the event of partial system failures, power fail-
19 ures, or other interruptive events.

20 (c) OPERATIONAL ANNOUNCEMENT.—The director of
21 the National Program Office shall notify the President
22 and the Congress when the System is operational, ready
23 to be deployed, and capable of transmitting alerts across
24 a variety of media to the public.

25 (d) ELECTION TO CARRY SERVICE.—

1 (1) AMENDMENT OF LICENSE.—Within 60 days
2 after the date of enactment of this Act, the Federal
3 Communications Commission shall initiate a pro-
4 ceeding—

5 (A) to allow any licensee providing mobile
6 service (as defined in section 3(27) of the Com-
7 munications Act of 1934 (47 U.S.C. 153(27)))
8 to transmit System alerts to all subscribers to,
9 or users of, such service; and

10 (B) to require any such licensee who elects
11 under paragraph (2) not to participate in the
12 transmission of System alerts, to disclose to po-
13 tential subscribers to its mobile service, at the
14 point of sale of any devices with which its serv-
15 ice is included, that it will not transmit System
16 alerts via its service.

17 (2) ELECTION TO CARRY SERVICE.—

18 (A) IN GENERAL.—Within 60 days after
19 transmittal by the Working Group of the re-
20 quirements under section 4(c), each such li-
21 censee shall—

22 (i) file an election with the Commis-
23 sion with respect to whether or not it in-
24 tends to participate in the transmission of
25 System alerts; and

1 (ii) if it elects to participate, certify to
2 the Commission that it will do so in a
3 manner consistent with the standards and
4 protocols implemented by the National
5 Program Office.

6 (B) WITHDRAWAL FROM OR LATER ENTRY
7 INTO SYSTEM.—The Commission shall establish
8 a procedure for—

9 (i) participating licensees to withdraw
10 from the System; and

11 (ii) licensees to enter the System at a
12 date later than provided in subparagraph
13 (A).

14 (3) LIMITATION OF LIABILITY.—A licensee de-
15 scribed in paragraph (1) shall not be liable to any
16 subscriber to, or user of, such licensee's mobile serv-
17 ice for—

18 (A) any act or omission related to or any
19 harm resulting from the transmission of, or
20 failure to transmit, a System alert to such sub-
21 scriber or user;

22 (B) the failure, deficiency, or malfunction
23 of any network, equipment, or facility of the
24 provider or any other person, or the lack of cov-
25 erage or network capacity;

1 (C) the discontinuation of service or the
2 unavailability of any networks, equipment, or
3 facility of the provider or any other person; or

4 (D) the release to a government agency or
5 entity, public safety, fire service or law enforce-
6 ment official or emergency facility of subscriber
7 information related to emergency alert mes-
8 sages.

9 (e) DIGITAL TELEVISION TRANSMISSION TOWERS.—

10 (1) RETRANSMISSION CAPABILITY.—Within 30
11 days after the date of enactment of this Act, the
12 Federal Communications Commission shall initiate a
13 proceeding to require public broadcast television li-
14 censees and permittees to install necessary equip-
15 ment and technologies on, or as part of, any broad-
16 cast television digital signal transmitter for the re-
17 ception, relay, and retransmission of System alerts.

18 (2) COMPENSATION.—The National Program
19 Office established pursuant to section 3 shall com-
20 pensate any such licensee or permittee for costs in-
21 curred in complying with the requirements imposed
22 pursuant to paragraph (1).

23 (f) FCC REGULATION OF COMPLIANCE.—Except as
24 provided in subsections (d) and (e), the Federal Commu-
25 nications Commission shall have no regulatory authority

1 under this Act except to regulate compliance with this Act
2 by licensees and permittees regulated by the Commission
3 under the Communications Act of 1934 (47 U.S.C. 151
4 et seq.).

5 **SEC. 8. DEFINITIONS.**

6 In this Act:

7 (1) DIRECTOR.—The term “director” means
8 the director of the National Program Office.

9 (2) OFFICE.—The term “Office” means the
10 National Program Office.

11 (3) SYSTEM.—The term “System” means the
12 national alert system operated and managed by the
13 Office.

14 (4) WORKING GROUP.—The term “Working
15 Group” means the Working Group on the National
16 Alert System established in section 4.

17 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated to the Un-
19 dersecretary of Commerce for Oceans and Atmosphere
20 \$250,000,000 for fiscal year 2006 to carry out this Act,
21 such sum to remain available until expended.